

REGULAR SESSION MINUTES

JUNE 13, 2007

Members Present: Barry Kaplan, D.P.M., Board President
Joseph Leonetti, D.P.M., Member
Dedrie Polakof, D.P.M., Member
Jeanne Reagan, Secretary-Treasurer
Gloria Lederman, Public Representative

Staff: Linda Wells, Executive Director

Assist. Atty. Gen'l. Terrie Sanders

CALL TO ORDER

The regularly scheduled meeting of the Arizona State Board of Podiatry Examiners was called to order at 8:30 a.m., Dr. Kaplan presiding.

APPROVAL OF MINUTES

A. REGULAR SESSION MEETING MINUTES OF MAY 9, 2007

Ms. Reagan moved to approve the May 9, 2007 regular session meeting minutes. Dr. Polakof seconded. The motion passed 5-0.

B. EXECUTIVE SESSION MEETING MINUTES OF MAY 9, 2007

Dr. Polakof moved to approve the May 9, 2007 executive session meeting minutes. Ms. Reagan seconded. The motion passed 5-0.

COMPLAINTS BEFORE THE BOARD FOR FIRST TIME

07-12-B APRAJITA NAKRA

At a previous meeting, the Board initiated a complaint against Aprajita Nakra, DPM for services rendered to her patient, J.S. The Board is in receipt of the doctor's written response, and the patient medical records.

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The Board alleges practice below the standard of care, i.e. Dr. Nakra billed an excessive fee to her patient for service rendered.

Following discussion, Dr. Polakof moved to table the complaint for further investigation, and to hold an investigative interview with Dr. Nakra pursuant to A.R.S. §32-852.01(A) based on a possible violation of A.R.S. §32-854.01. Ms. Reagan seconded. The motion passed 5-0.

07-13-C KRIS A. DiNUCCI

The Board is in receipt of an anonymous complaint filed against Kris A. DiNucci, DPM. The Board is also in receipt of Dr. DiNucci's written response.

The complainant alleges misleading advertising.

Following discussion, Dr. Kaplan moved to table the complaint for further investigation, and to hold an investigative interview with Dr. DiNucci pursuant to A.R.S. §32-852.01(A) based on a possible violation of A.R.S. §32-854.01. Ms. Reagan seconded. The motion passed 5-0. The Board requested that Dr. DiNucci forward a copy of any taped television advertisement regarding the new technique for bunion surgery.

07-14-C PAUL K. WOODWARD

The Board is in receipt of a complaint filed against Paul K. Woodward, DPM initiated by an individual who is not a patient of Dr. Woodward. The Board is also in receipt of the doctor's written response.

The complainant alleges that Dr. Woodward abuses drugs and alcohol.

Following discussion, Dr. Kaplan moved to table the complaint for further investigation, and to hold an investigative interview with Dr. Woodward pursuant to A.R.S. §32-852.01(A) based on a possible violation of A.R.S. §32-854.01. Ms. Reagan seconded. The motion passed 5-0. The Board requested a subpoena be issued to Dr. Woodward for the following patient medical records:

1. Danny Wood
2. Brian Houlahan
3. Dave Peevyhouse

OPEN COMPLAINTS

07-07-C STEPHEN L. BARRETT

At a previous meeting, the Board tabled the complaint filed against Stephen L. Barrett, DPM for further investigation.

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The complainant alleges practice below the standard of care and treatment, i.e., Dr. Barrett performed a surgery that was not medically necessary, and tests were not performed to determine necessity. The complainant also alleges that Dr. Barrett was not qualified to perform the surgery.

At the June meeting, the Board discussed medical records they received regarding the investigation.

Following discussion, the Board tabled the complaint for further investigation. The Board requested a subpoena be issued to the following physicians for the patient medical records:

1. Amos Katz, M.D.
2. Joseph G. Marsicano, M.D.
3. Allen J. Atheras, DPM

05-27-M ELAINE J. SHAPIRO

At a previous meeting, the Board tabled the malpractice complaint filed against Elaine J. Shapiro, DPM until final disposition is reached in Superior Court. The complaint was filed in the Pima County Superior Court by plaintiff, Carrie Marshall. The Board requested a monthly update on the status of the pending matter from Dr. Shapiro.

The plaintiff alleges negligent care, and as a result incurred lost wages and medical expenses in the past, and expects to incur further such losses in the future.

The complaint is tabled until final resolution is reached at the superior court.

05-36-C GEORGE N. THOMPSON

At a previous meeting, the Board tabled the complaint filed against George N. Thompson, DPM pending further investigation. It was reported at a previous meeting that Dr. Thompson did not comply with the Board order requiring him to undergo an independent psychiatric evaluation by a psychiatrist of the Board's choice pursuant to A.R.S. §32-852.01(F).

The Board requested a letter be sent to Dr. Thompson and his attorney informing them that the Board is willing to allow Dr. Thompson another opportunity to comply with the order to undergo an evaluation.

The complainant alleges unprofessional conduct, and excessive billing, i.e. Dr. Thompson received payment twice for services rendered, and billed an excessive fee.

Ms. Wells reported at the June meeting that Dr. Thompson called to schedule an appointment with the psychiatrist as instructed in the letter to him from the Board.

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The complaint is tabled for further investigation.

06-03-C GEORGE N. THOMPSON

At a previous meeting, the Board tabled the complaint filed against George N. Thompson, DPM for further investigation. It was reported at a previous meeting that Dr. Thompson did not comply with the Board Order requiring him to undergo an independent psychiatric evaluation by a psychiatrist of the Board's choice pursuant to A.R.S. §32-852.01(F). The Board requested a letter be sent to Dr. Thompson and his attorney informing them that the Board is willing to allow Dr. Thompson another opportunity to comply with the order to undergo an evaluation.

The complainant alleges practice below the standard of care and treatment, i.e. excessive length of time spent for an office visit, and billing an excessive fee.

Ms. Wells reported at the June meeting that Dr. Thompson called to schedule an appointment with the psychiatrist as instructed in the letter to him from the Board.

The complaint is tabled for further investigation.

06-11-C GEORGE N. THOMPSON

At a previous meeting, the Board moved to table the complaint and Investigative Interview with Dr. Thompson pending further investigation. It was reported at a previous meeting that Dr. Thompson did not comply with the Board order requiring him to undergo an independent psychiatric evaluation by a psychiatrist of the Board's choice pursuant to A.R.S. §32-852.01(F). The Board requested a letter be sent to Dr. Thompson and his attorney informing them that the Board is willing to allow Dr. Thompson another opportunity to comply with the order to undergo an evaluation.

The complainant alleges excessive length of time spent for the initial office visit, and unsanitary office conditions.

Ms. Wells reported at the June meeting that Dr. Thompson called to schedule an appointment with the psychiatrist as instructed in the letter to him from the Board.

The complaint is tabled for further investigation.

06-22-M ANDREW LOWY

At a previous meeting, the Board tabled the complaint filed against Andrew Lowy, DPM until a final disposition is reached in Superior Court. The complaint originated in the Maricopa County Superior Court by plaintiff, Barbara Rubin and was reported by Dr. Lowy on his license renewal application. The Board requested a quarterly update on the status of the case as it proceeds through the court to its final resolution.

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The plaintiff alleges practice below the standard of care and treatment rendered by Dr. Lowy following surgery to remove a neuroma.

The Board is in receipt of a letter from Attorney, Bruce D. Crawford informing them that discovery is ongoing, and a trial date has not been set.

The complaint is tabled until there is final disposition of the case in superior court.

06-28-C GEORGE N. THOMPSON

At a previous meeting, the Board tabled the complaint filed against George N. Thompson, DPM for further investigation. It was reported at a previous meeting that Dr. Thompson did not comply with the Board Order requiring him to undergo an independent psychiatric evaluation by a psychiatrist of the Board's choice pursuant to A.R.S. §32-852.01(F). The Board requested a letter be sent to Dr. Thompson and his attorney informing them that the Board is willing to allow Dr. Thompson another opportunity to comply with the order to undergo an evaluation.

The complainant alleges practice below the standard of care and treatment regarding her foot ailments, i.e. Dr. Thompson discussed issues not relevant to her foot conditions, and asked inappropriate questions relating to her deceased husband.

Ms. Wells reported at the June meeting that Dr. Thompson called to schedule an appointment with the psychiatrist as instructed in the letter to him from the Board.

The complaint is tabled for further investigation.

06-31-C ELAINE J. SHAPIRO

At a previous meeting, the Board tabled the complaint filed against Elaine J. Shapiro, DPM initiated by her patient, H.F. and moved to hold an investigative interview with her pursuant to A.R.S. §32-852.01(A) based on a possible violation of A.R.S. §32-854.01.

The complainant alleges practice below the standard of care and treatment rendered by Dr. Shapiro following surgery to remove and insert new screws from an initial surgery performed by another podiatrist. The complainant alleges that she continues to have pain and swelling as a result of the surgery.

Dr. Shapiro was present at the June meeting for the investigative interview. Dr. Shapiro reviewed her diagnosis and treatment rendered to patient, H.F.

Following the interview, Dr. Kaplan moved to dismiss the complaint finding no apparent violation of the Arizona Revised Statutes governing the practice of podiatry. Ms. Lederman seconded. The motion passed 5-0.

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The Board based their decision to dismiss the complaint following review of the complete patient medical record, and hearing testimony from Dr. Shapiro. The Board concluded that the quality of care and treatment rendered was within the standard of care.

06-04-C ALAN GAVECK

At a previous meeting, the Board moved to issue a Decree of Censure and Probation to Dr. Gaveck for practice below the standard of care and treatment rendered to his patient.

The Board is in receipt of a Motion for Rehearing of the Informal Interview filed by attorney, Bruce D. Crawford on behalf of Dr. Gaveck. The Board is also in receipt of a letter from attorney, Bruce D. Crawford informing the Board that he and Dr. Gaveck cannot attend the June meeting due to scheduled conflicts.

The Board tabled discussion of the Motion for Rehearing, and a notice will be sent to Dr. Gaveck and his attorney informing them of a date and time to present oral argument.

07-09-C SCOTT MALING

At a previous meeting, the Board tabled the complaint filed against Scott Maling, DPM initiated by his patient, S.B. and moved to hold an investigative interview with Dr. Maling pursuant to A.R.S. §32-852.01(A) based on a possible violation of A.R.S. §32-854.01.

The complainant alleges practice below the standard of care and treatment, i.e. Dr. Maling made an incorrect diagnosis of his foot ailment(s), and prescribed the wrong medications that caused serious side effects.

Dr. Maling was present at the June meeting for the investigative interview. Dr. Maling reviewed his diagnosis and treatment rendered to patient, S.B.

Following the interview, Dr. Leonetti moved to issue a Letter of Concern to Dr. Maling. The letter will indicate the following Board concern:

1. Inadequate record keeping, i.e. lack of written prescription history in the patient chart

07-10-C SERJIK NAZARIAN

At a previous meeting, the Board tabled the complaint filed against Serjik Nazarian, DPM for further investigation, and moved to hold an investigative interview with the doctor pursuant to A.R.S. §32-852.01(A) based on a possible violation of A.R.S. §32-854.01.

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The complainant alleges practice below the standard of care and treatment by Dr. Nazarian following surgery on her right foot. The complainant alleges that her foot is worse than prior to the surgery, and she has continuous pain and discomfort.

Dr. Nazarian was present at the June meeting for the investigation interview. The complainant was also present. Dr. Nazarian reviewed his diagnosis and treatment rendered.

Following the interview, Dr. Polakof moved to dismiss the complaint finding no apparent violation of the Arizona Revised Statutes governing the practice of podiatry. Ms. Reagan seconded. The motion passed 5-0.

The Board based their decision to dismiss the complaint following review of the complete patient medical records, and hearing testimony from the complainant and Dr. Nazarian. The Board concluded that the quality of care and treatment rendered was within the standard of care.

07-11-C J. DAVID BROWN

At a previous meeting, the Board moved to table the complaint filed against Dr. Brown for further investigation, and to hold an investigative interview with him pursuant to A.R.S. §32-852.01(A) based on a possible violation of A.R.S. §32-854.01.

The complainant alleges unprofessional conduct, i.e. Dr. Brown frequently abuses drugs and alcohol.

Dr. Kaplan moved to enter executive session at 9:45 a.m. for the purpose of receiving confidential legal advice from Assistant Attorney General, Terrie Sanders. Ms. Lederman seconded. The motion passed 5-0.

The Board left executive session and entered regular session at 9:49 a.m.

Following discussion, the Board tabled the complaint for further investigation, and requested the following:

1. Subpoena Dr. Brown's complete medical records for the last two years from Raymond P. Roffi, M.D.
2. Subpoena Dr. Brown's medical records for the last two years from Leo Odle, M.D.

PROBATIONARY STATUS REPORTS

05-02-C ROBERT FRIDRICH

Dr. Fridrich is currently on probation for a violation of the Arizona Revised Statutes governing the practice of podiatry. Patient surgical records are monitored monthly for

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compliance with a signed Consent Agreement and Order. At a previous meeting, the Board accepted the Amended Consent Agreement and Order that extends the probationary period another six months with new terms.

The Board is in receipt of Dr. Fridrich's May, 2007 surgery reports. Dr. Leonetti reported that he reviewed the doctor's surgery reports from April and May, 2007 and that there is an incomplete chart on patient, S.S. A letter will be sent to Dr. Fridrich requesting a complete patient medical record including the pre and post-operative x-rays and billings.

05-19-M MICHAEL DERSHOWITZ

Dr. Dershowitz is currently on probation for a violation of the Arizona Revised Statutes governing the practice of podiatry. Patient surgical records are monitored monthly for compliance with a signed Consent Agreement and Order.

The Board is in receipt of the April and May, 2007 surgery report from Dr. Dershowitz.

Dr. Polakof will provide a report to the Board of her findings at the July meeting.

EXECUTIVE DIRECTOR'S REPORT

A. Review of May, 2007 Revenue and Expenditure Report

The Board reviewed the May, 2007 Revenue and Expenditure Report.

SUBSTANTIVE REVIEW & APPROVAL OF THE FOLLOWING APPLICANT FOR ARIZONA LICENSURE:

Dr. Kaplan moved to approve the following applicant to sit for the oral examination to be administered on December 4, 2007.

1. Eugene Dannels

Dr. Leonetti seconded. The motion passed 5-0.

CORRESPONDENCE

A. Discussion of letter from Patrick M. Shannahan, Ombudsman-Citizens' Aide

The Board is in receipt of a letter from Patrick M. Shannahan, office of Ombudsman-Citizens' Aide regarding the conclusion of their inquiry into the complaint filed in their office by Michael Dershowitz, DPM.

Board discussion of the letter is tabled until the next meeting in July.

CALL TO THE PUBLIC

No public comment was received.

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ADJOURNMENT

There being no further business before the Board, the meeting was adjourned at 10:43 a.m.

Respectfully submitted,

Linda A. Wells
Executive Director

APPROVED:

Barry Kaplan, DPM
Board President